

AS

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 96-194-C - ORDER NO. 97-2  
JANUARY 2, 1997

IN RE: Application of Econophone, Inc. for ) ORDER  
a Certificate of Public Convenience and ) APPROVING  
Necessity to Provide Intrastate Resold ) CERTIFICATE  
Telecommunications Services within the )  
State of South Carolina.

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Econophone, Inc. ("Econophone" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of intrastate interexchange telecommunications services in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1995) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed Econophone to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of Econophone's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Econophone complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A hearing was commenced on November 26, 1996, at 11:00 A.M., in the Commission's Hearing Room. The Honorable Guy Butler, Chairman, presided. Econophone was not represented by counsel. Catherine D. Taylor, Staff Counsel, represented the Commission Staff.

Monte Banash, Director of Prepaid Cards, appeared and offered testimony in support of Econophone's Application. Mr. Banash stated that Econophone is a New York corporation which is registered to do business in South Carolina as a foreign corporation. According to Mr. Banash, Econophone proposes to offer long distance services using resold transmission services of carriers certificated to carry traffic in South Carolina. Mr. Banash explained the Company's request for authority to provide interexchange telecommunications services in South Carolina as a reseller. The record reveals the Company's services, operations and marketing procedures.

Mr. Banash also explained that Econophone possesses the technical, financial and managerial abilities to provide its services in South Carolina. Mr. Banash further testified that the Company would make certain changes to its proposed tariff to comply with Commission guidelines and prior Orders.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

#### **FINDINGS OF FACT**

1. Econophone is incorporated under the laws of the

State of New York and is licensed to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Econophone operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.

3. Econophone has the experience, capability, and financial resources to provide the services as described in its Application.

#### CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Econophone to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Econophone for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Econophone shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. Econophone shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1995).

4. If it has not already done so by the date of issuance of this Order, Econophone shall file its revised maximum tariff and an accompanying price list within thirty (30) days of the date of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

5. Econophone is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly

to facilities-based interexchange carriers.

6. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Econophone shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Econophone changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, Econophone shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

9. Econophone shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

10. The Company shall, in compliance with Commission Regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relation (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Econophone shall file the names, addresses and telephone numbers of these representatives with the

Commission within thirty (30) days of receipt of this Order. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced, and the Company is directed to comply with the Commission regulations unless waived by the Commission.

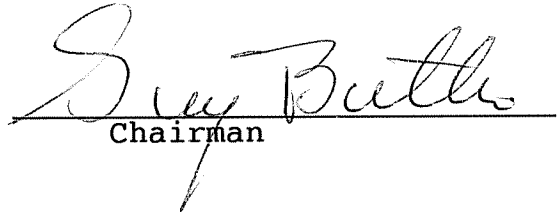
11. With regard to Econophone's debit card, the Commission requires, as a condition of offering debit card services, the Company to post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed in one year.

12. If the Company sells its debit cards to retail establishment for resale of the debit cards, and the retailer of the debit cards deviates from the suggested retail price as filed in the tariff, or as approved by the Commission in a special promotion, then the Company will withdraw its cards from that retail outlet. This Commission strongly suggests that the Company enter into written agreements with its South Carolina retail outlets regarding this policy of abiding by

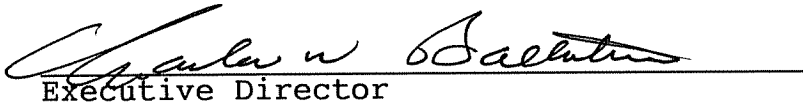
suggested retail pricing prior to the outlet marketing the card.

13. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
Chairman

ATTEST:

  
Executive Director

(SEAL)

DOCKET NO. 96-194-C - ORDER NO. 97-2  
JANUARY 2, 1997  
ATTACHMENT A

ANNUAL INFORMATION ON SOUTH CAROLINA OPERATIONS  
FOR INTEREXCHANGE COMPANIES AND AOS'S

\_\_\_\_\_  
COMPANY NAME

\_\_\_\_\_  
FEI NO.

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY, STATE, ZIP CODE

\_\_\_\_\_  
PHONE NUMBER

(1) SOUTH CAROLINA OPERATING REVENUES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.

(2) SOUTH CAROLINA OPERATING EXPENSES FOR THE 12 MONTHS ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.

(3) RATE BASE INVESTMENT IN SOUTH CAROLINA OPERATIONS\* FOR 12  
MONTHS ENDING DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.

\* THIS WOULD INCLUDE GROSS PLANT, ACCUMULATED DEPRECIATION,  
MATERIALS AND SUPPLIES, CASH WORKING CAPITAL, CONSTRUCTION  
WORK IN PROGRESS, ACCUMULATED DEFERRED INCOME TAX,  
CONTRIBUTIONS IN AID OF CONSTRUCTION AND CUSTOMER DEPOSITS.

(4) PARENT'S CAPITAL STRUCTURE\* AT DECEMBER 31 OR FISCAL YEAR  
ENDING \_\_\_\_\_.

\* THIS WOULD INCLUDE ALL LONG TERM DEBT (NOT THE CURRENT PORTION  
PAYABLE), PREFERRED STOCK AND COMMON EQUITY.

(5) PARENT'S EMBEDDED COST PERCENTAGE (%) FOR LONG TERM DEBT AND  
EMBEDDED COST PERCENTAGE (%) FOR PREFERRED STOCK AT YEAR ENDING  
DECEMBER 31 OR FISCAL YEAR ENDING \_\_\_\_\_.

(6) ALL DETAILS ON THE ALLOCATION METHOD USED TO DETERMINE THE  
AMOUNT OF EXPENSES ALLOCATED TO SOUTH CAROLINA OPERATIONS AS  
WELL AS METHOD OF ALLOCATION OF COMPANY'S RATE BASE INVESTMENT  
(SEE #3 ABOVE).

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
NAME (PLEASE TYPE OF PRINT)

\_\_\_\_\_  
TITLE